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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/904,266	07/12/2001	Allen He	US018100	2034

7590 03/07/2005

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EXAMINER

HOM, SHICK C

ART UNIT PAPER NUMBER

2666

DATE MAILED: 03/07/2005

RECEIVED

MAR 24 2005

Technology Center 2600

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

**Application No.**

09/904,266

**Applicant(s)**

HE ET AL.

**Examiner**

Shick C Hom

**Art Unit**

2666

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 7/12/01, 11/14/02.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-15 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |                                                                                                    |                                                                             |
|----------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)               | Paper No(s)/Mail Date. _____                                                |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>11/14/02</u> .                                                            | 6) <input type="checkbox"/> Other: _____                                    |

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**DETAILED ACTION**

***Claim Rejections - 35 USC § 112***

1. Claims 5, 8, 13, 14 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claims 5, 8, 14 line 2 which recite "the Pilot Channel" lacks clear antecedent basis because no Pilot Channel have been previously recited in the claims and therefore the limitation is not clearly understood. Likewise, claim 13 line 2 which recite "the Forward Shared channel" lacks clear antecedent basis.

***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

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3. Claims 1-15 are rejected under 35 U.S.C. 102(e) as being anticipated by Wang (EP 1 089 456 A2).

Regarding claims 1, 6, 9, 10, and 15:

Wang discloses the apparatus comprising: means for calculating a first gain value representing the gain of one or more first channel samples of a first channel of a signal; means for calculating a second gain value representing the gain of one or more second channel samples of a second channel of the signal; and means for calculating a gain ratio of the first gain value to the second gain value as the quotient of the first gain value divided by the second gain value (see Fig. 3 and page 5 line 45 to page 6 line 6 which shows and recite calculating and using the ratio of  $SNR(\text{traffic})$  to  $SNR(\text{pcb})$  clearly anticipate dividing the first gain value,  $SNR(\text{traffic})$ , by the second gain value,  $SNR(\text{pcb})$ ) as in claims 1, 6, 9, 10, and 15; including means for calculating a Forward Shared Channel (FSHCH) gain representing the gain of one or more received FSHCH samples (see page 4 lines 48-58 which recite the power control method being use in the forward link); and means for calculating a Pilot Channel (PCH) gain representing the gain of one or more received PCH samples (see page 5 line 55 to page 6 line 6 which recite

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evaluating the signal strength of the power control bits (pcb)) as in claims 9 and 15.

Regarding claims 4, 5, 7, 8, 13, and 14:

Wang disclose wherein the first channel is the Forward Shared Channel and the signal is a Code Division Multiple Access signal (see page 4 lines 48-58 which recite the CDMA system and forward link).

Regarding claims 2, 3, 11, and 12:

Wand disclose wherein the means for calculating the first gain value comprises at least one of an average gain of the one or more first channel samples and a summation of the one or more first channel samples (see page 7 line 50 to page 8 line 8 which recite computing the average power for a given data rate and target FER).

### **Conclusion**

4. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Lundby discloses a method and apparatus in a communication system. See paragraph 0007 which recite determining the ratio of power level of a communication channel over power level of a pilot channel to produce a power level ratio.

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Vanghi discloses a system and method for improved mobile communication admission and congestion control.

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Shick C Hom whose telephone number is 571-272-3173. The examiner can normally be reached on Monday to Friday with alternate Fridays off.

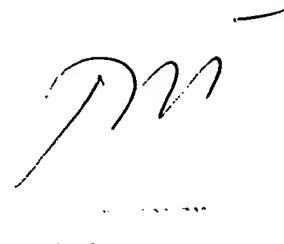
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Seema Rao can be reached on 571-272-3174. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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SH

A handwritten signature or set of initials, possibly reading 'PM', written in dark ink. The strokes are fluid and cursive, with a horizontal line extending from the top right of the main character.